



EUROPEAN COMMISSION

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2012/0152 (NLE)

Proposal for a

COUNCIL DECISION

**extending the period of application of the appropriate measures in Decision
2011/492/EU concluding consultations with the Republic of Guinea-Bissau under Article
96 of the Cotonou Agreement and amending that Decision**

EXPLANATORY MEMORANDUM

On 31 January 2011 the European Union decided to open consultations with the Republic of Guinea-Bissau under Article 96 of the revised Cotonou Agreement. This decision was taken in the wake of the events of 1 April 2010. On that day, on the orders of the Deputy Chief of Staff of the Armed Forces, General Antonio Indjai, a group of mutinous soldiers arrested Chief of Staff José Zamora Induta and the Prime Minister of Guinea-Bissau, Mr. Gomes Junior. Following the mutiny, General Indjai became de facto Chief of Staff before being officially appointed on 25 June 2010 by decree of the President, Mr Bacai Sanha, on a proposal from the government.

The appointment on 8 October 2010 of Admiral Bubo Na Tchuto as head of the navy constituted a further setback to good governance in Guinea-Bissau. Rear Admiral Na Tchuto played a destabilising role in the aftermath of the mutiny of 1 April and is under sanctions imposed by international partners for his suspected involvement in illegal activities.

The European Union regards the mutiny of 1 April 2010 and the subsequent appointment of its main instigators to high-ranking posts in the military hierarchy as a serious and evident breach of the essential elements of Article 9 of the Cotonou Agreement (respect for democratic principles) and as a case of special urgency within the meaning of Article 96(2)(b). A letter was therefore sent to the Guinea-Bissau authorities on 2 February 2011 to invite them to hold consultations.

The opening meeting of the consultations took place in Brussels on 29 March 2011.

In the course of the meeting, the participants were informed of the proposals of the Guinea-Bissau side for progressively ensuring the primacy of civilian authority, improving democratic governance, guaranteeing the safeguarding of constitutional order and the rule of law, and tackling impunity and organised crime.

The undertakings made by the Guinea-Bissau side comprise, in particular:

- the conduct and conclusion of judicial investigations and proceedings that are fully independent and carried out under appropriate logistic and security conditions, relating to the assassinations in March and June 2009;
- the effective implementation of the security sector reform based on the strategy adopted by the national parliament and the legislative package drawn up with the support of the EU's CSDP mission;
- the renewal of the military hierarchy to ensure the appointment to senior command of persons not involved in unconstitutional or illegal conduct or acts of violence, in conformity with the conclusions and recommendations of the ECOWAS roadmap for Security Sector Reform;
- the approval of and assistance of an experts' mission to support security sector reform and the protection of political figures, to be carried out with the support of ECOWAS, the CPLP and/or other partners;
- the preparation, adoption and effective implementation of national operational plans to implement Security Sector Reform and to combat drug trafficking;

- the improvement of the administrative and financial management of civilian and military employees, and measures to combat money laundering.

The European Union noted these undertakings in its conclusions of the consultations. It urged the representatives of the Republic of Guinea-Bissau to undertake judicial investigations and proceedings into the events of 1 April 2010 to reinforce efforts to tackle the problem of impunity and to specify a more detailed timetable for implementation of these undertakings in compliance with the timeframe set out in the ECOWAS roadmap.

The European Union decided on 18 July 2011, by Council Decision 2011/492/EU to adopt appropriate measures for the performance of these undertakings, including a scheme of mutual commitments for the gradual resumption of EU cooperation.

An Article 96 follow-up mission took place in Bissau on January 18-20, 2012. The mission report points to an insufficient degree of implementation of the first group of commitments indicated in the Council Decision 2011/492/EU and, as a consequence, the impossibility of unblocking the corresponding cooperation programmes. The report was endorsed by the Africa Working Group of the Council on 15 February.2012.

On April 12, a coup d'état by elements of the armed forces took place after the first round of the presidential elections, due after the death in January of President Bacai Sanha; the Acting President and the Prime Minister were arrested.

Since then ECOWAS has been mediating to facilitate a solution leading to the restoration of democratic order in Guinea-Bissau.

The Commission considers it important that Council Decision 2011/492/EU is not allowed to expire as it provides a fundamental framework for the promotion of democratic stability in Guinea-Bissau. An extension of the deadline one year , until 19 July 2013, is therefore proposed.

The other contents of the Decision (i.e. detailed conditionalities and EU responses) may require some adaptations as the political situation changes, but at this point in time it is not possible to predict how things may evolve with sufficient accuracy.

Conclusion

In the light of the above, the Council is requested to adopt the attached draft proposal for a Council Decision extending the period of application of the appropriate measures to Guinea-Bissau.

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extending the period of application of the appropriate measures in Decision 2011/492/EU concluding consultations with the Republic of Guinea-Bissau under Article 96 of the Cotonou Agreement and amending that Decision

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to the Partnership Agreement between the members of the African, Caribbean and Pacific Group of States of the one part, and the European Community and its Member States of the other part, signed in Cotonou on 23 June 2000¹ (hereinafter referred to as the 'Cotonou Agreement'), as revised at Ouagadougou, Burkina Faso on 22 June 2010², and in particular Article 96 thereof,

Having regard to the Internal Agreement on measures to be taken and procedures to be followed for the implementation of the ACP-EC Partnership Agreement³, and in particular Article 3 thereof,

Having regard to the proposal from the Commission,

Whereas:

- (1) By Council Decision the consultations with the Republic of Guinea-Bissau under Article 96 of the Cotonou Agreement were concluded and appropriate measures, as specified in the Annex to that Decision, were taken.
- (2) The essential elements cited in Article 9 of the Cotonou Agreement continue to be violated and the current conditions in Guinea-Bissau do not ensure respect for human rights, democratic principles and the rule of law.
- (3) Decision 2011/492/EU should therefore be amended to extend the period of application of the appropriate measures.

¹ OJ L 317, 15.12.2000, p. 3.

² OJ L 287, 4.11.2010, p.3

³ OJ L 317, 15.12.2000, p. 376, as amended in OJ L 247, 9.9.2006, p. 48.

HAS ADOPTED THIS DECISION:

Article 1

Decision 2011/492/EU is hereby amended as follows:

In Article 3, the second paragraph is replaced by the following:

"It shall expire on 19 July 2013."

Article 2

The letter annexed to the present decision shall be sent to the authorities of Guinea-Bissau

Article 3

This Decision shall enter into force on the date of its adoption.

Done at Brussels,

For the Council
The President

ANNEX

H.E. the President of the Republic of Guinea-Bissau,

H.E. the Prime Minister of the Republic of Guinea-Bissau,

Sirs,

Further to the consultations which took place in Brussels on 29 March 2011 in the framework of Article 96 of the ACP-EU Partnership Agreement, the European Union decided on 18 July 2011, by Council Decision 2011/492/EU to adopt appropriate measures, including a scheme of mutual commitments for the gradual resumption of EU cooperation.

Twelve months after the adoption of the above decision, the European Union considers that no significant progress has been made and therefore decides to extend the period of application of its Decision 2011/492/EU until 19 July 2013.

The European Union wished to underline once again the importance that it attaches to future cooperation with Guinea-Bissau and to confirm its willingness to carry on the dialogue and make progress in the near future towards a situation where the resumption of full cooperation becomes possible.

Yours faithfully,

For the Council

C. ASHTON

President

For the Commission

A. PIEBALGS

Commissioner